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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/551,762	10/03/2005	Patrick Leschaeve	MBL-002	6189

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EXAMINER	
NGUYEN, THUY-AI N	
ART UNIT	**PAPER NUMBER**
1796	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/551,762	LESCHAEVE ET AL.	
	Examiner	Art Unit	
	Thuyai N. Nguyen	1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 October 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-19* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *10/03/2005*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> *The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.*

2. Claims 4, 9, 10, 11, 12, 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Regarding claims 4, 9, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

4. A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in Ex parte Wu, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of Ex parte Steigewald, 131 USPQ 74 (Bd. App. 1961); Ex parte Hall, 83 USPQ 38 (Bd. App. 1948); and Ex parte Hasche, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 10 recites

the broad recitation a weight gain of about 5% to 70%, and claim 12 which depends on claim 10 also recites the weight gain lies in the range 5% to 40%, which is the narrower statement of the range/limitation.

5. Claim 14 recites the limitation "the drum" in line 2. There is insufficient antecedent basis for this limitation in the claim 7. It is note that claim 14 should depend on claim 13. The Office treats claim 14 as if it depends on claim 13.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> *(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.*

2. Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kamiya (US. 6,136,778) in view of Severns et al. (US. 2005/0050644).

Regarding claim 1, Kamiya teaches an aqueous composition for dry cleaning comprising essential oils (col. 6, lines 44-65) and surface active agents (col. 7, lines 66 to col. 8, lines 1-40), and the ingredients of the composition being exclusively of vegetable origin (e.g., coconut, col. 8, lines 12-19).

Kamiya does not teach that the composition is etherizable and micronizable to less than 50 μm. Severns teaches a method and apparatus for applying a treatment fluid to fabrics comprising etherizing and micronizing the composition to less than 50 μm (e.g., less than 100μm, [0082, 0084]). At the time of the invention, it would have been obvious to one of

ordinary skill in the art to utilize the teachings of Severns into the teachings of Kamiya in order to provide a method and system for cleaning or treating fabric articles that are safe for a wide range of fabric articles, minimize shrinkage and wrinkling, and can be adapted to a cost effective use in the consumer's home and/or in service businesses and commercial environments [0008].

Regarding claim 2, Kamiya further teaches the essential oil comprises eucalyptus (col. 6: 50).

Regarding claim 3, Kamiya further teaches the surface active agent comprises palm (e.g., coconut is a member of palm family, col. 8: 12-19).

Regarding claim 4, Kamiya also teaches the composition comprises at least oils, glycerin and floral water (e.g., oils, Jasmine, glycerin, col. 6: 44-65 and col. 8: 41-48).

Regarding claim 5, Kamiya also teaches that the composition comprises fruit alcohol, tree gum and natural wax (e.g., alcohol, wax = esters of fatty acid, and gum, col. 6: 44 - col. 7: 16, col. 9: 15-37, col. 10: 30-46).

Regarding claim 6, Kamiya further teaches the composition comprises at least one additive having the antibacterial property (col. 30: 5-7).

Regarding claim 7, Kamiya further teaches the composition includes salts (acid salts, col. 7: 66 - col. 8: 54).

Regarding claim 8, Kamiya also illustrates in table 8 that the composition has a pH level lies in the range of 5.4 to 6.6.

Regarding claim 9, Kamiya further teaches:

a) the essential oil representing 0.5% to 10% by weight (0.1% to 20%, col. 5: 34-42);

b) surface active agent (surfactant) representing 5% to 20% by weight (0.25-20% by weight, col. 5: 34-42);

c) at least one ingredient, e.g., glycerin, representing 5%-90% by weight (0.25-10% by weight, col. 9: 15-38);

d) alcohol representing 0.5% to 30% by weight (10% to 30% by weight, col. 9: 34-38);

e) antibacterial representing 0.1% to 10% by weight (0.5% to 15% by weight, col. 9: 60-63; col. 30: 5-7);

f) salt representing 0.05% to 10% by weight (3.0%-20% by weight, col. 5: 60-67).

3. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kamiya (US. 6,136,778) in view of Severns et al (US. 2005/0050644) and Noyes et al (US. 2005/0256015).

Regarding claims 10 and 12, Kamiya teaches the aqueous composition as described in the rejection of claim 1, above. However, Kamiya does not teach a method of dry cleaning that involves tumbling in a leaked tight enclosure. Kamiya neither teach impregnating the fabrics with dry cleaning composition by pneumatic atomization to no more than 50 μm.

Severns further teaches a method of dry cleaning that involves tumbling in a leaked tight enclosure (e.g., see fig. 1-2). Severns also teaches impregnating the fabrics with dry cleaning composition by pneumatic atomization (i.e., to use air pressurized to spray the composition) to no more than 50 μm (e.g., less than 100μm, para 0082, 0084). At the time of the invention, it would have been obvious to one of ordinary skill in the art to utilize the teachings of Severns into the teachings of Kamiya in order to provide a method and system for cleaning or treating fabric

articles that are safe for a wide range of fabric articles, minimize shrinkage and wrinkling, and can be adapted to a cost effective use in the consumer's home and/or in service businesses and commercial environments [0008].

Kamiya and Severns do not teach that applying the composition at a temperature less than or equal to 45 degree Celsius, until there is a weight gain of about 5% to 70%.

Noyes teaches applying the composition at a temperature less than or equal to 45 degree Celsius [0106, 0121 and 0122], until there is a weight gain of about 5% to 70% (e.g., 20%-200% by dry weight, [0099]). At the time the invention, it would have been obvious to one of ordinary skill in the art to utilize the teachings of Noyes into the teachings of Kamiya in view of Severns in order to provide a method for cleaning or treating fabric articles that is safe for a wide range of fabric articles, minimizes shrinkage and wrinkling, and can be adapted to a cost effective use in the consumer's home (Noyes, [0006]).

Regarding claim 11, Severns further teaches the tumbling [0076-0079], pueumatic atomization [0080, 0082, 0084] and Severns's dry cleaning method inherently involves cleaning, drying and cooling steps.

Claim Rejections - 35 USC § 102(e)/ 103

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. *Claims 13-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Severns et al (US. 2005/0050644).*

Regarding claim 13, Severns illustrates a dry cleaning machine comprises a drum, a leaked tight enclosure (the chamber 1, fig. 1-2), heater means (to produces the heating temperature [0137; 0244 and 0245]); control means (controller 81, [0122]); and door (59). Although claim 13 is depending on claim 1, claim 13 can be treated without limited to claim 1 because it is apparatus (MPEP. 2115). Because the machine has all features as a requirement, it is capable of producing pneumatic atomization within the range temperature as set forth by the applicant.

Regarding claim 14, Severns further teaches that when the drum is in rotation, changing direction in alternation from the beginning to the end of the program (para. 0079).

Regarding claim 15, Severns does not teach the drum is reversed every 30 seconds. However, Severns teaches reversing the direction of drum rotation several times to provide more uniform agitation and more uniform heat transfer to the fabric articles being treated [0079].

Regarding claim 16, Severns further teaches the use of filter (6, [0092], fig. 1).

Regarding claim 17, Severns shows in fig. 2, the beater (drum 2) disposed obliquely from the nozzle (26), since the nozzle (26) is located within chamber (1) which is isolated from drum (2).

Regarding claim 18, Severns illustrates in fig. 2, a single pneumatic atomization nozzle (spray nozzle 26) is situated in the center portion of the door (58, [0063]).

Regarding claim 19, Severns further illustrates in fig. 2, the door is of conical shape (see portion 57), projecting outwards (see portion 56 and 59) from the enclosure (chamber 1) such that the nozzle (spray nozzle 26) is inherently situated at a distance d from the enclosure.

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thuyai N. Nguyen whose telephone number is 571-270-3294. The examiner can normally be reached on Monday-Friday: 8:30 a.m. - 5:00 p.m. eastern time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Eashoo can be reached on 571-272-1197. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

January 4, 2008

Patent Examiner
Thuy-Ai N. Nguyen

MARK EASHOO, PH.D.
SUPERVISORY PATENT EXAMINER

07/Jan/08